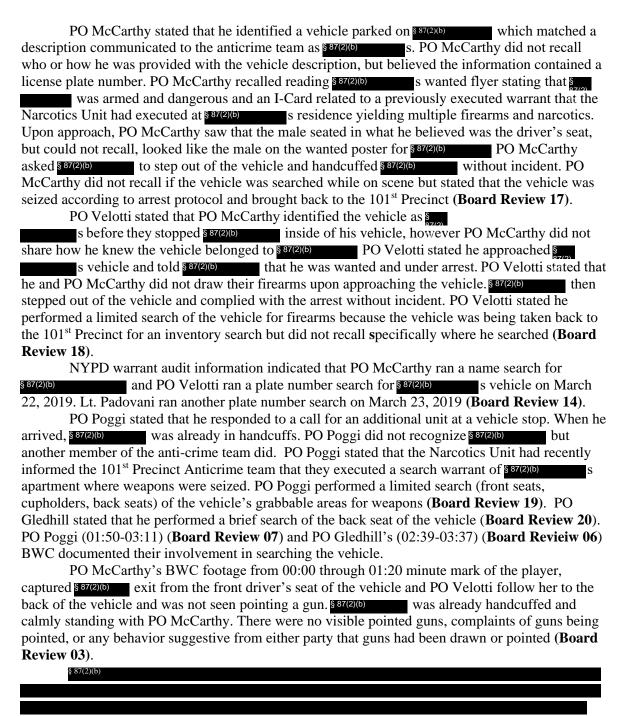
## CCRB INVESTIGATIVE RECOMMENDATION

Investigator:		Team:	CCRB Case #:	v	Force	$\overline{\square}$	Discourt.	U.S.	
Latrice Frazier		Squad #1	201907191	 ☑	Abuse		O.L.	✓ Injury	·y
		1							
Incident Date(s)		Location of Incident:		F	Precinct:	18	Mo. SOL	EO SO	
Saturday, 03/23/2019 8:30 PM					101	9,	/23/2020	5/10/20	)21
Date/Time CV Reported		CV Reported At:	How CV Reported:		Date/Time	Rece	eived at CCI	RB	
Tue, 08/13/2019 4:46 PM		CCRB	Phone		Tue, 08/13	/2019	9 4:46 PM		
Complainant/Victim	Type	Home Addre	ess						
Subject Officer(s)	Shield	TaxID	Command						
1. POM Michael McCarthy	19917	950855	101 PCT						
2. POM Nicholas Velotti	09432	949767	101 PCT						
3. POM Adam Gledhill	30941	954156	101 PCT						
4. POM Jay Poggi	22681	953259	101 PCT						
Witness Officer(s)	Shield N	o Tax No	Cmd Name						
1. LT Brian Padovani	00000	944872	101 PCT						
Officer(s)	Allegatio	on			Inve	stiga	ator Recon	nmendatio	on
A.POM Michael McCarthy	Force: Po § 87(2)(b)	olice Officer Michael Mo	cCarthy pointed his	gun	at				
B.POM Nicholas Velotti	Force: Po § 87(2)(b)	olice Officer Nicholas V	elotti pointed his gu	n at					
C.POM Nicholas Velotti	Abuse: P in which	olice Officer Nicholas V § 87(2)(b) was an occ		vehi	cle				
D.POM Adam Gledhill	Abuse: P which § 87	olice Officer Adam Gleo (2)(b) was an occup		hic	e in				
E.POM Jay Poggi	Abuse: P which § 87	olice Officer Jay Poggi s (2)(b) was an occup		in					
F.POM Michael McCarthy		esy: Police Officer Mich cously to § 87(2)(b)	ael McCarthy spoke	)					
G.POM Nicholas Velotti		esy: Police Officer Nicho cously to § 87(2)(b)	olas Velotti spoke						
H.POM Nicholas Velotti	Force: Poagainst § 8	olice Officer Nicholas V	elotti used physical	forc	е				
I.POM Nicholas Velotti	Abuse: P	olice Officer Nicholas V	/elotti threatened to	arre	st				

## **Case Summary**

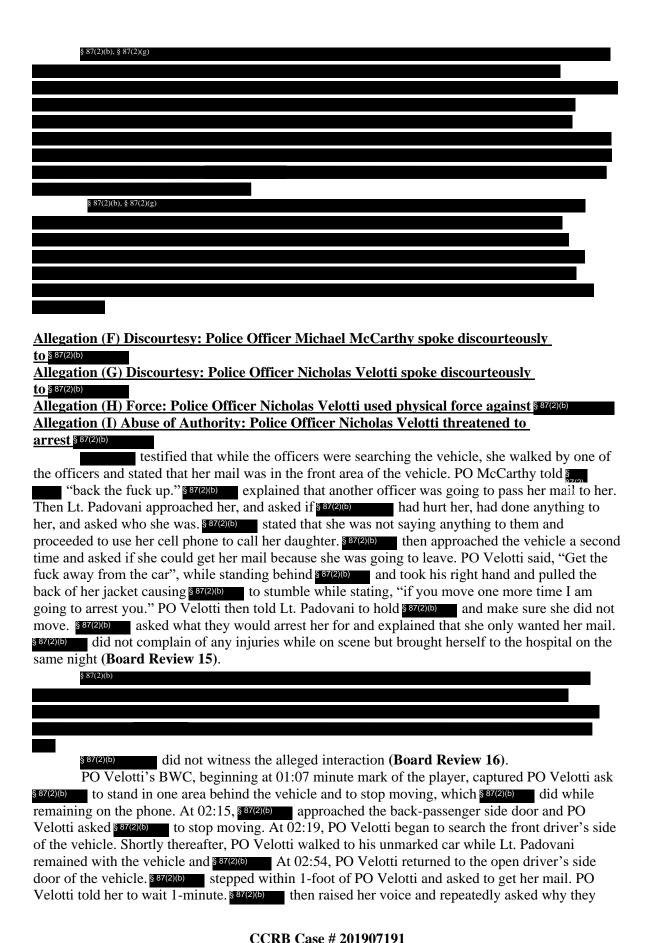
On August 13, 2019, § 87(2)(b) filed the following complaint with the CCRB via telephone. On March 23, 2019, at approximately 8:30 p.m., § 87(2)(5) and the father of her children, were parked on the corner of Queens. Police Officers Nicholas Velotti and Michael McCarthy of the 101st Precinct, approached the vehicle and asked \$87(2)(b) and \$87(2)(b) to exit the vehicle while pointing guns at their faces (Allegations A and B: Force, \$87(2)(g) was immediately arrested. PO Velotti, PO Adam Gledhill, and PO Jay Poggi of the 101st Precinct, searched the vehicle (Allegations C, D, and E Abuse of Authority, \$87(2)(g) PO McCarthy said "back the fuck up" to \$87(2)(b) (Allegation F: Discourtesy, \$87(2)(g) PO Velotti said "get the fuck away from the car," to § 87(2)(b) (Allegation G: Discourtesy, § 87(2)(g) while pulling § 87(2)(b) by her jacket and causing \$87(2)(b) to stumble (Allegation H: Force, \$87(2)(g) and stated, "if you move one more time I am going to arrest you" (Allegations I: Abuse of Authority, \$57(2)(g) was arrested on 18 counts involving criminal possession of narcotics and firearms, related to a search warrant executed by the Queens South Narcotics Unit on February 28, 2019, in which an I-Card was generated for (Board Reviews 01, 02, and 13). was not arrested or issued a summons. Body-worn camera footage (BWC) captured the alleged incident, however, did not capture PO Velotti and PO McCarthy's initial approach of the vehicle or the handcuffing of § 87(2)(b) **Findings and Recommendations** Allegation (A) Force: Police Officer Michael McCarthy pointed his gun at \$87(2)(5) Allegation (B) Force: Police Officer Nicholas Velotti pointed his gun at (SEZZIO) Allegation (C) Abuse of Authority: Police Officer Nicholas Velotti searched the vehicle in which § 87(2)(b) was an occupant. Allegation (D) Abuse of Authority: Police Officer Adam Gledhill searched the vehicle in which § 87(2)(b) was an occupant. Allegation (E) Abuse of Authority: Police Officer Jay Poggi searched the vehicle in which § 87(2)(b) was an occupant. It is undisputed that on March 23, 2019, at approximately 8:30 p.m., near the corner of in Queens, PO Velotti and PO McCarthy approached § 87(2)(b) after identifying 887(2)(6) in a vehicle registered to him (Board Review 34). PO Velotti and PO McCarthy effected the arrest of \$87(2)(b) who had an open I-Card with the Queens South Narcotics Unit for possession of a machine gun (Board Review 13). PO Velotti, PO Gledhill, and PO Poggi performed a search of the vehicle registered to \$87(2)(b) for weapons while on scene post-arrest (Board Review 36). \$37(2)(b) stated that an unmarked car pulled in front of them and PO McCarthy approached the passenger's side of \$37(2)(b) so whicle and asked her and \$87(2)(b) to exit the vehicle. exited the vehicle and PO McCarthy handcuffed \$87(2)(b) and immediately and seated him in the unmarked car. § 87(2)(b) exited the vehicle on her own. Several other officers arrived and the vehicle was searched by multiple officers. § 37(2)(b) did not make mention of any guns being pointed in her direction during the stop (Board Review 15). stated that two officers approached the vehicle with guns pointed at their faces, while yelling. PO McCarthy and PO Velotti then grabbed 387(2)(5) and himself out of the vehicle and holstered their guns. §87(2)(6) was patted down, handcuffed and escorted to an unmarked RMP (Board Review 16).

CCRB Case # 201907191



<u>Patrol Guide Procedure 221-01</u> states, the decision to display or draw a firearm should be based on an articulable belief that the potential for serious physical injury is present. Firearms should be holstered once it is determined that the threat is no longer present. Additionally, any use of force must be reasonable under the circumstances (**Board Review 26**).

The NY Court of Appeals held that where police have validly arrested an occupant of an automobile, and they have reason to believe that the car may contain evidence related to the crime for which the occupant was arrested or that a weapon may be discovered they may contemporaneously search the passenger compartment, including any containers found therein, <a href="People v. Belton">People v. Belton</a>, 55 N.Y.2d. 49 (Board Review 40).



were in her car without a warrant. PO McCarthy told \$\frac{87(2)(6)}{2}\$ to step away from the vehicle, which she did, and PO Velotti resumed the search of the vehicle. At 05:13, Lt. Padovani told the officers to bring the vehicle back to the precinct. \$\frac{87(2)(6)}{2}\$ then stated that the vehicle was hers. Lt. Padovani and PO Velotti explained that a license plate search showed that the vehicle was registered to \$\frac{87(2)(6)}{2}\$ walked into the open driver's side door of the vehicle. PO Velotti asked her what she was doing and with his right hand grabbed the left back shoulder of \$\frac{87(2)(6)}{2}\$ s jacket and pulled her from the vehicle, causing her to take two steps backwards from the vehicle as she continued to ask for her mail. PO Velotti said, "I'm giving you one more warning or you are going to be in handcuffs." BWC did not capture either PO McCarthy or PO Velotti use the alleged discourteous language (**Board Review 04**).

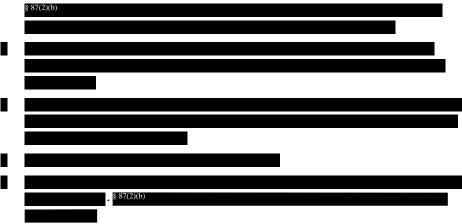
PO Velotti stated he asked (2)(b) calmly approximately five times to step back from the vehicle. PO Velotti stated that he could have arrested (387(2)(b) for disorderly conduct or obstruction of governmental administration for non-compliance. PO Velotti stated that he may have pushed her arm out of the vehicle while telling her to stand back from the car but did not use force against (2)(c) PO Velotti stated that he did not make any discourteous statements and did not recall PO McCarthy do so either (Board Review 18).

PO McCarthy did not recall saying, "back the fuck up", to \$87(2)(b) and did not hear any other officer say, "back the fuck up", or curse at \$87(2)(b) PO McCarthy did not recall seeing any officer make physical contact with \$87(2)(b) PO McCarthy did not hear any officer say, "get the fuck away from the car", to \$87(2)(b) (Board Review 17). PO Poggi, PO Gledhill, and Lt. Padovani's statements mirrored PO McCarthy's (Board Review 23).

<u>Patrol Guide Procedure 221-01</u> states, officers are to take action in order to stabilize a situation and reduce the immediacy of the threat with the goal to gain voluntary compliance of the subject, when appropriate and consistent with personal safety. Any use of force must be reasonable under the circumstances (**Board Review 26**).

According to <u>New York Penal Law Section 195.05</u>, a person is guilty of obstructing governmental administration when he intentionally obstructs the administration of law or other governmental function or by means of physical force or interference (**Board Review 28**).

§ 87(2)(b), § 87(2)(g)
§ 87(2)(b), § 87(2)(g)
Civilian and Officer CCRB Histories
§ 87(2)(b)



- PO McCarthy has been a member-of-service for nine years and has been subject in 15 CCRB complaints and 29 allegations, of which two were substantiated.
  - 201501145, involved substantiated allegations of threat of force and discourtesy against PO McCarthy. The Board recommended formalized retraining, which the NYPD imposed. PO McCarthy's CCRB history does not reflect any patterns pertinent to this investigation.
- PO Velotti has been a member-of-service for 10 years and has been a subject in four CCRB complaints and five allegations, none of which were substantiated. PO Velotti's CCRB history does not reflect any apparent pattern pertinent to this investigation.
- PO Gledhill has been a member-of-service for seven years and has been a subject in one CCRB complaint and one allegation, which was not substantiated. PO Gledhill's CCRB history does not reflect any apparent pattern pertinent to this investigation.
- PO Poggi has been a member-of-service for eight years and has been a subject in four CCRB complaints and 15 allegations, which were not substantiated. PO Poggi's CCRB history does not reflect any apparent pattern pertinent to this investigation.

## **Mediation, Civil and Criminal Histories**

This complaint was not suitable for mediation.
\$87(2)(b)
\$87(2)(b)
(Board Review 38).
As of April 29, 2020, the New York City Office of the Comptroller has no record of a Notice of Claim being filed in regards to this complaint (Board Review 32).

Squad No.:

1

Investigator:

Inv. Frazier
12/3/20

	Signature	Print Title & Name	Date
Squad Leader:	Mgr. Joy Almeyda		1.13.21
_	Signature	Print Title & Name	Date